Attv. Dkt. No 049280-0102

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Robert D. Hill

Title: METHOD OF MODIFYING PLANT

PHENOTYPES WITH NONSYMBIOTIC

HEMOGLOBIN

Appl. No.: 10/582,321

International

Filing Date: 12/10/2004

371(c) Date: 05/22/2007

Examiner: Phuong T. Bui

Art Unit: 1638

Confirmation 4952

Number:

PETITION UNDER 37 C.F.R. 1.182 FOR CORRECTION OF INTERNATIONAL APPLICATION NUMBER FOR U.S. NATIONAL STAGE APPLICATION

Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

Sir

Applicants hereby petition the Commissioner for correction of the international application number for the captioned application, which entered the U.S. National Phase on June 9, 2006.

As a result of a clerical error, and without any deceptive intent, Applicants provided an incorrect international application number on the "Transmittal Letter To The United States ... Concerning a Filing Under 35 U.S.C. 371" and on the Application Data Sheet, setting forth "PCT/IB2004/004119," when the correct international application number is "PCT/IB2004/004419."

That PCT/IB2004/004419 is the correct and intended international application number is supported by the identity of the title, inventors, Applicant/Assignee, international filing date, and priority claim to U.S. provisional application 60/528,777, that were set forth on the Transmittal Letter and ADS and that pertain to PCT/IB2004/004419, and by the copy of the published text of PCT/IB2004/004419 (WO 2005/055703) that also was submitted with the U.S. National Phase entry documents on June 9, 2006. A copy of the Transmittal Letter and ADS and the first page of WO 2005/055703 is submitted herewith.

Also submitted herewith is a copy of the stamped postcard confirming receipt by the U.S. receiving office of 28 pages of specification and claims and 6 sheets of Figures 1-6, which correspond to the page numbers and drawing sheets of PCT/IB2004/004419.

Applicants first learned of this error in early 2007, when Bernard Gregory in the U.S. Patent Office PCT Office alerted Applicants to the error by telephone. As requested by Bernard Gregory, Applicants filed by facsimile a new Transmittal Letter and ADS with the correct international application number. A copy of this facsimile is submitted herewith.

As the Notice of Acceptance and the official Filing Receipt issued on July 24, 2007, showed the correct international application number, Applicants believed that the error had been corrected.

On July 26, 2010, the Examiner assigned to the application advised Applicants that a Petition under 37 CFR 1. 181 is required to satisfy the formal requirements for correcting an error of this type. Thus, Applicants submit this petition to comply with these requirements.

Because the record shows that the incorrect international application number was provided as a result of a clerical error, and because other documents submitted with the U.S. National Phase entry documents on June 9, 2006 indicate the correct international application number (such as the copy of the published text of PCT/IB2004/004419 that was filed) and are consistent with the correct international application number, Applicants respectfully urge that this petition be promptly granted.

The petition fee required under 37 C.F.R. 1.17(f) is submitted herewith.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by the

Atty. Dkt. No 049280-0102

credit card payment form being unsigned, providing incorrect information resulting in a rejected credit card transaction, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

If there are any questions regarding this submission, the Patent Office is invited to contact the undersigned attorney of record at the telephone number set forth below.

Respectfully submitted,

Date July 28,200 By Chidy C/MM

FOLEY & LARDNER LLP Customer Number: 22428 Telephone: (202) 295-4094

Facsimile: (202) 672-5399

Courtenay C. Brinckerhoff Attorney for Applicant

Registration No. 37,288

METS 133 STORE AS JOH TOOR

COPY

FORM PTO-1390 (Modified) U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE (REV 12-2004)

T	RANSMITTAL LETTER TO THE UNITED STATES	ATTORNEY'S DOCKET NUMBER
	DESIGNATED/ELECTED OFFICE (DO/EO/US)	049280-0102
	CONCERNING A FILING UNDER 35 U.S.C. 371	102582321 FR 1.5)
PCT/I	TIONAL APPLICATION NO. INTERNATIONAL FILING DATE 12/10/2004	PRIORITY DATE CLAIMED 12/12/2003
TITLE OF	INVENTION OD OF MODIFYING PLANT PHENOTYPES WITH NONSYMBIOTIC HE	MOGLOBIN
	NT(S) FOR DO/EO/US	
Rober	t D. Hill et al. herewith submits to the United States Designated/Elected Office (DO/EO/I	US) the following items and other information:
1		
1. 🗵	This is a FIRST submission of items concerning a filing under 35 U.S.	
2. 🗆	This is a SECOND or SUBSEQUENT submission of items concerning	
3. 🗆	This is an express request to begin national examination procedures (items (5), (6), (9) and (21) indicated below.	(35 U.S.C. 371(1)). The submission must include
4. 🖾	The US has been elected (Article 31).	
5. 🖾	A copy of the International Application as filed (35 U.S.C. 371(c)(2))	
	is attached hereto (required only if not communicated by the In	iternational Bureau).
1	has been communicated by the International Bureau.	
	is not required, as the application was filed in the United States	
6. ⊠	An English language translation of the International Application as file	d (35 U.S.C. 371(c)(2)).
	is attached hereto. has been previously submitted under 35 U.S.C. 154(d)(4).	
7. 🖾	Amendments to the claims of the International Application under PCT	Article 19 (35 U.S.C. 371(c)(3))
j. 💆	are attached hereto (required only if not transmitted by the International areas attached hereto).	emational Bureau).
1	have been communicated by the International Bureau.	amondments has NOT owned
	have not been made; however, the time limit for making such a have not been made and will not be made.	ашенишентя наз нот ехрігет.
8. 🗆	An English language translation of the amendments to the claims und	ler PCT Article 19 (35 U.S.C. 371(c)(3)).
9.	An oath or declaration of the inventor(s) (35 U.S.C. 371(c)(4)).	
10.	An English language translation of the annexes to the International Pr	reliminary Examination Report under PCT Article
"	36 (35 U.S.C. 371(c)(5)).	·
Items 11	to 20 below concern other document(s) or information included:	
11. 🖂	An Information Disclosure Statement under 37 CFR 1.97 and 1.98. F	
12. 🗆	An assignment document for recording. A separate cover sheet in co	empliance with 37 CFR 3.28 and 3.31 is included.
13. 🖾	A preliminary amendment.	
14. 🖾	An Application Data Sheet under 37 CFR 1.76.	
15. 🗆	A substitute specification.	
16. 🗆	A power of attorney and/or change of address letter.	
17. 🗆	A computer-readable form of the sequence listing in accordance with I	
18. 🗆	A second copy of the published international application under 35 U.S.	
19. 🗆	A second copy of the English language translation of the international	application under 35 U.S.C. 154(d)(4).
20. 🖾	Other items or information; International Search Report (3 pages).	
1	FO+1990 (Modified)	

IAP20 Rec'd PCT/PTO 09 JUN 2008

u.s. APPLICA	s. APPLICATION NO. HIS 25037 687 15) INTERNATIONAL APPLICATION NO. ATTOR 049							KET NUMBER 12	
	The follow	ing fees have	been su	bmitted:					
21. 🛛	Basic na	ional fee			\$	300	\$	300.00	
22.	Examina	tion fee							
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All other					\$	500	\$	400.00	
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Application Data Sheet

COPY

10/582321

IAP20 Rec'd PCT/PTO 09 JUN 2006

Application Information

Application Type:: Regular Subject Matter:: Utility

Suggested classification:: Suggested Group Art Unit::

CD-ROM or CD-R?:: None
Computer Readable Form (CRF)?:: No

Title:: METHOD OF MODIFYING PLANT

PHENOTYPES WITH NONSYMBIOTIC

HEMOGLOBIN

Attorney Docket Number:: 049280-0102

Request for Early Publication?:: No
Request for Non-Publication?:: No
Suggested Drawing Figure:: 3
Total Drawing Sheets:: 6
Small Entity?:: Yes
Petition included?:: No
Secrecy Order in Parent Appl.?:: No

Applicant Information

Applicant Authority Type:: Inventor
Primary Citizenship Country: Canadian
Status:: Full Capacity
Given Name:: Robert D.
Family Name:: Hill

City of Residence:: Winnipeg
State or Province of Manitoba

Residence::

Country of Residence:: Canada

Street of mailing address:: 34 McNulty Cres.

City of mailing address:: Winnipeg
State or Province of mailing Manitoba

address::

Country of mailing address:: Canada

Postal or Zip Code of mailing R2M 5H4

address::

Applicant Authority Type:: Inventor

Primary Citizenship Country:: Canadian

Status:: Full Capacity

Given Name:: Kevin

Family Name:: Baron
City of Residence:: Carberry
State or Province of Manitoba

Residence::

Country of Residence:: Canada
Street of mailing address:: Box 623
City of mailing address:: Carberry
State or Province of mailing Manitoba

address::

Country of mailing address:: Canada

Postal or Zip Code of mailing R0K 0H0

address::

Correspondence Information

Correspondence Customer Number:: 22428

E-Mail address:: PTOMailWashington@foley.com

Representative Information

Representative Customer	22428	
Number::		

Domestic Priority Information

Application::	Continuity Type::	Parent	Parent Filing
		Application::	Date::
This Application	National Stage of	PCT/IB2004/004119	12/10/2004
PCT/IB2004/004119	An application claiming the benefit under 35 USC 119(e)	60/528,777	12/12/2003

Foreign Priority Information

Country::	Application	Filing Date::	Priority Claimed::
	number::		

Assignee Information

Assignee Name:: University of Manitoba

(19) World Intellectual Property Organization International Bureau



A01H

(43) International Publication Date 23 June 2005 (23.06.2005)

(10) International Publication Number PCT WO 2005/055703 A2

(51) International Patent Classification7:

(21) International Application Number:

PCT/IB2004/004419

(22) International Filing Date:

10 December 2004 (10.12.2004)

(25) Filing Language:

English

(26) Publication Languages

English

(30) Priority Data: 12 December 2003 (12.12.2003) US

60/528,777

(71) Applicant (for all designated States except US): UNIVER-SITY OF MANITOBA [CA/CA]; 631 Drake Centre, 181 Freedman Crescent, Winnipeg, Manitoba R3T 5V4 (CA).

(72) Inventors; and

(75) Inventors/Applicants (for US only): HILL, Robert, D. [CA/CA]; 34 McNulty Cres., Winnipeg, Manitoba R2M 5H4 (CA). BARON, Kevin [CA/CA]; Box 623, Carberry, Manitoba R0K 0H0 (CA).

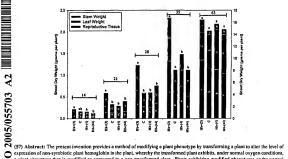
(81) Designated States (unless otherwise indicated, for every kind of national protection available): AE, AG, AL, AM, AT, AU, AZ, BA, BB, BG, BR, BW, BY, BZ, CA, CH, CN, CO, CR, CU, CZ, DE, DK, DM, DZ, EC, EE, EG, ES, FI, GB, GD, GE, GH, GM, HR, HU, ID, IL, IN, IS, JP, KE, KG, KP, KR, KZ, LC, LK, LR, LS, LT, LU, LV, MA, MD, MG, MK, MN, MW, MX, MZ, NA, NI, NO, NZ, OM, PG, PH. PL. PT. RO. RU. SC. SD. SE. SG. SK. SL. SY. TJ. TM. TN, TR, TT, TZ, UA, UG, US, UZ, VC, VN, YU, ZA, ZM,

(84) Designated States (unless otherwise indicated, for every kind of regional protection available): ARIPO (BW, GH, GM, KE, LS, MW, MZ, NA, SD, SL, SZ, TZ, UG, ZM, ZW), Eurasian (AM, AZ, BY, KG, KZ, MD, RU, TJ, TM), European (AT, BE, BG, CH, CY, CZ, DE, DK, EE, BS, FI, FR. GB. GR. HU. IE. IS. IT. LT. LU. MC. NL. PL. PT. RO. SE. SI. SK. TR), OAPI (BF. BJ. CF. CG. CT. CM. GA. GN. GO, GW, ML, MR, NE, SN, TD, TG).

 without international search report and to be republished upon receipt of that report

For two-letter codes and other abbreviations, refer to the "Guidance Notes on Codes and Abbrevlations" appearing at the beginning of each regular issue of the PCT Gazette.

(54) Title: METHOD OF MODIFYING PLANT PHENOTYPES WITH NONSYMBIOTIC HEMOGLOBIN



expression of non-symbiotic plant hemoglobin in the plant, whereby the transformed plant exhibits, under normal oxygen conditions, a plant phenotype that is modified as compared to a non-transformed plant. Plants exhibiting modified phenotypes under normal oxygen conditions also are provided. Methods of modifying the response to a plant hormone in a plant also are provided.

COPY

IAP15 Rec'd PCT PTO 09 JUN 2006

Title: METHOD OF MODIFYING PLANT PHENOTYPES WITH NONSYMBIOTIC

HEMOGLOBIN Inventor(s): Robert D. Hill Appl. No.: Unassigned

Dkt. No. 049280-0102 CCBR

- Transmittal Letter to U.S. Designated/Elected Office (2 pgs. in duplicate);
- Credit Card Payment Form in the amount of \$590.00 (1 pg.); 10/582101
- Application Data Sheet (3 pgs.);
- Preliminary Amendment (4 pgs);
- Specification and Claims (28 pgs); Formal Drawings (6 sheets of Figs. 1-6);
- Information Disclosure Statement (2 pgs);
- PTO/SB/08 (1 pg., including 7 references);

International Search Report (3 pgs).

Attorney Initials: CCBR/am/smw Date Filed: June 9, 2006

Insp. By:

WASH_1627566.1

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FOLEY & LARDNER LLP ATTORNEYS AT LAW

WASHINGTON HARBOUR 3000 K STREET NW, SUITE 500 WASHINGTON, D.C. 20007-5143 TELEPHONE: 202.872.5300 FACSIMILE: 202.872.5399 WWW.FOLEY.COM

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Total # of Pages: 6 (including this page)

TO:	PHONE #:	FAX#:
Patent Cooperation Treaty (PCT) Office		703-305-3230
DONNA GREEN		705 000 0201

From: Stella Walker

Date: 04/18/2007

Client/Matter No: 049280-0102

User ID No: 09863

Dear Ms. Green,

Per Bernard Gregory, attached is a corrected National Phase Transmittal for PCT/IB2004/004419, and a Supplemental Application Data Sheet.

At your earliest convenience, please forward to us a new Notification of Missing Requirements for Serial No. 10/582,321. If you have any questions, please do not hesitate to call me at (202) 945-6094.

Best regards,



ATTORNEYS AT LAW

WASHINGTON HARBOUR 3000 K STREET NW, SUITE 500 WASHINGTON, D.C. 20007-5143 TELEPHONE: 202.672.5300 FACSIMILE: 202.672.5399 WWW.FOLEY.COM

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Total # of Pages: 6 (including this page)

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Best regards

Stella Walker

P.S. You guys are AWESOME!!!!

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Stella Walker

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CORRECTED

U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE (REV 12 2004)

	TF	RANSMITTAL LETTER	TO THE UNITED STATES	ATTORNEY'S DOCKET NUMBER	
			ED OFFICE (DO/EO/US)	049280-0102	
1			G UNDER 35 U.S.C. 371	U.S. APPLICATION NO. (If known, see 37 C.F.R. 1.5)	
10.17	CONIA	TIONAL APPLICATION NO.	INTERNATIONAL FILING DATE	10/582,321	
_	PCT/IE	32004/004419	PRIORITY DATE CLAIMED 12/12/2003		
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4.	\boxtimes	The US has been elected (A	rticle 31).		
5.	\boxtimes	A copy of the International A	pplication as filed (35 U.S.C. 371(c)(2))		
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1		has been communication	ited by the International Bureau.		
		is not required, as the	application was filed in the United States Re	eceiving Office (RO/US)	
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		is attached hereto.	submitted under 35 U.S.C. 154(d)(4).		
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		 □ have not been made; □ have not been made 	however, the time limit for making such ame	endments has NOT expired.	
8.			tion of the amendments to the claims under l	20T Adialo 10 (25 H C C 274(a)(2))	
9.	$\overline{}$		inventor(s) (35 U.S.C. 371(c)(4)).	-C1 Article 19 (33 0.3.C. 37 (C)(3)).	
Γ.					
10.	ш	36 (35 U.S.C. 371(c)(5)).	on of the annexes to the International Prelin	ninary Examination Report under PCT Article	
Iter	ns 11 to	o 20 below concern other doc	ument(s) or information included:		
11.			atement under 37 CFR 1.97 and 1.98. Form	PTO/SR/08 and 7 references	
12.					
13.	 An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included. A preliminary amendment. 				
14.	4. An Application Data Sheet under 37 CFR 1.76.				
15.		A substitute specification.			
16.		A power of attorney and/or c	hange of address letter.		
17.			the sequence listing in accordance with PCT	Rule 13/er.2 and 37 CFR 1.821 – 1.825	
18.			ed international application under 35 U.S.C. 1		
19.			language translation of the international appl		
20.	\boxtimes	Other items or information: Ir	itemational Search Report (3 pages).		
		-1390 (Modified)	(o pages).		

	U.S. APPLICATION NO. (If known, see 37 CFR. 1.5) INTERNATIONAL APPLICATION NO. ATTORNEY'S DOCKET NUMBER 10/582,321 PCT/IB2004/004419 049280-0102							
The following fees have been submitted:							T	1
21. Basic national fee \$300							\$	
If Internal	22. Examination fee If International preliminary examination report prepared by USPTO and all claims satisfy						s	
All other:	provisions of PCT Article 33(1)-(4) \$100 All other situations \$200							
23.	Search fe							
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Total	Claims	23	- 20 =	3	x\$	50.00	\$	
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				English translation later th CFR 1.492(i)).	an 30 mo	nths	\$	
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							Amount to be refunded:	
a. 🗆	A check in	the amou	nt of 59	0.00 to cover the above	fees is a	enclosed	charged:	
b. 🗆	Please ch	arge my D	eposit A	Account No. <u>19-0741</u> in t	the amou	unt of 590.00	to cover the above	fees.
c. 🖾	A duplicate copy of this sheet is enclosed. c. The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any							
_	overpayment to Deposit Account No. 19-0741. A duplicate copy of this sheet is enclosed.							
d. ⊠	d. Sees are to be charge to a credit card. WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038							
NOTE: 1.137(a)	Where an or (b)) mu	appropria st be filed	te time and gr	a limit under 37 CFR anted to restore the In	I.495 ha ternatio	s not been nal Applica	met, a petition to tion to pending stat	revive (37 CFR
	LL CORRE				(Ruda	my COM.	
	Foley & L	ardner I I	Р			SIGNATU	6	
	Custome			3			y C. Brinckerhoff	
l	543101116	. 40111061		•		NAME		
l	37,288						ATION NUMBER	
						KEGISTH	ATION NUMBER	

Supplemental Application Data Sheet

Application Information

Application Type:: Regular

Subject Matter:: Utility

Application No.: 10/582,321

Suggested classification::

Suggested Group Art Unit::

Computer Readable Form (CRF)?::

CD-ROM or CD-R?:: None

Title:: METHOD OF MODIFYING PLANT

Nο

PHENOTYPES WITH NONSYMBIOTIC

HEMOGLOBIN

Attorney Docket Number:: 049280-0102

Request for Early Publication?:: No

Request for Non-Publication?:: No Suggested Drawing Figure:: 3

Total Drawing Sheets:: 6

Small Entity?:: Yes

Petition included?:: No

Secrecy Order in Parent Appl.?:: No

Applicant Information

Applicant Authority Type:: Inventor

Primary Citizenship Country:: Canadian

Status:: Full Capacity

Given Name:: Robert D.

Family Name:: Hill

City of Residence:: Winnipeg

State or Province of Manitoba

Residence::

Country of Residence:: Canada

34 McNulty Cres. Street of mailing address::

City of mailing address:: Winnipeg Manitoba

State or Province of mailing

address::

Country of mailing address:: Canada Postal or Zip Code of mailing R2M 5H4

address::

Applicant Authority Type:: Inventor Primary Citizenship Country:: Canadian Status:: Full Capacity

Given Name:: Kevin Family Name:: Baron

City of Residence:: Carberry State or Province of Manitoba

Residence::

Country of Residence:: Canada Street of mailing address:: Box 623 City of mailing address:: Carberry State or Province of mailing Manitoba

address::

Country of mailing address:: Canada Postal or Zip Code of mailing ROK 0H0

address...

Correspondence Information

Correspondence Customer Number:: 22428

E-Mail address:: PTOMailWashington@foley.com

Representative Information

Representative Customer	22428	
Number::		

Domestic Priority Information

Application::	Continuity Type::	Parent	Parent Filing
		Application::	Date::
This Application	National Stage of	PCT/IB2004/004119	12/10/2004
This Application	National Stage of	PCT/IB2004/004419	12/10/2004
PCT/IB2004/004119	An application claiming the benefit under 35	60/528,777	12/12/2003
	USC 119(e)		

Foreign Priority Information

Country::	Application	Filing Date::	Priority Claimed::
	number::		

Assignee Information

Assignee Name:: University of Manitoba